June 22, 2026

Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

VIA EMAIL

Re.: File Number S7-2026-12 *Concept Release on Consolidated Audit Trail and Other Audit Trails and Data Sources*

Dear Ms. Countryman:

The Committee on Capital Markets Regulation (the "**Committee**") offers these comments to the U.S. Securities and Exchange Commission (the "**SEC**") on its concept release on the Consolidated Audit Trail ("**CAT**").[1]

Founded in 2006, the Committee is dedicated to enhancing the competitiveness of U.S. capital markets and ensuring the stability of the U.S. financial system. Our membership includes forty-seven leaders drawn from the finance, investment, business, law, accounting, and academic communities. The Committee is chaired jointly by R. Glenn Hubbard (Emeritus Dean, Columbia Business School) and John L. Thornton (Former Chairman, The Brookings Institution) and is led by Hal S. Scott (Emeritus Nomura Professor of International Financial Systems at Harvard Law School and President of the Program on International Financial Systems). The Committee is an independent and nonpartisan 501(c)(3) research organization, financed by contributions from individuals, foundations, and corporations.

Our letter proceeds in two parts. Part I identifies significant shortcomings in the current funding model for the CAT. In particular, it permits most CAT costs to be imposed on broker-dealers, which lack voting representation in the CAT's budget-setting process. The SEC is not required to justify any cost increases to Congress. Furthermore, the funding model does not rest on an established statutory framework. The resulting lack of accountability and statutory constraints has contributed to costs far exceeding initial projections, burdens that fall on market intermediaries and investors, and recurring litigation that creates uncertainty for both market participants and the SEC. Part II explains why funding the CAT through the SEC's congressionally appropriated budget would address these concerns by subjecting the CAT's budget to congressional oversight and allocating costs under an established statutory framework, without increasing costs to taxpayers. We therefore recommend that the SEC shift the CAT's funding to the SEC's congressionally appropriated budget by amending its budget request for fiscal year 2027 to include CAT costs for the upcoming year and by issuing a formal rulemaking to shift the CAT's costs to the SEC's budget for subsequent years.

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[1] SECURITIES AND EXCHANGE COMMISSION, *Concept Release on Consolidated Audit Trail and Other Audit Trails and Data Sources*, 91 FED. REG. 20,945 (Apr. 20, 2026), https://www.govinfo.gov/content/pkg/FR-2026-04-20/pdf/2026-07651.pdf (the "**CAT Concept Release**").

I. <u>The Current CAT Funding Model Results in Cost Overruns and Legal Uncertainty</u>.

The CAT is a trade tracking system and information repository that requires securities exchanges and broker-dealers to report to the SEC information about all trades of exchange-listed equities and equity options in U.S. markets. The CAT is intended to strengthen the SEC's oversight of the U.S. equity and options markets by aggregating trading data across all U.S. trading venues[2] and first became operational in 2018 with reporting by securities exchanges,[3] followed by phased implementation of broker-dealer reporting requirements through 2024.[4]

However, the CAT's costs have far exceeded initial projections. In 2016 the SEC estimated that the CAT's initial set-up costs would be $65 million, and that the CAT's annual operating costs would be $55 million.[5] However, actual set-up costs amounted to $1 billion, and the CAT's annual operating budget increased to $248 million by 2025.[6] The SEC has recently taken steps to reduce the CAT's annual operating costs by narrowing the scope of data that the CAT processes and stores and eliminating the collection of personally identifiable information ("**PII**"). These reductions have reduced the CAT's 2026 budget to $156 million.[7] However, as the SEC noted in the Concept Release, this remains "significantly in excess" of the SEC's original estimate.[8]

These significant costs stem from the structure of the CAT's funding model. The SEC implemented the CAT as a "Regulation NMS plan." This means that the Financial Industry Regulatory Authority and securities exchanges (the "self-regulatory organizations" ("**SROs**")) independently establish the CAT's budget and allocate costs among the securities exchanges and the broker-dealers that transact on them. These budget and cost allocations become effective unless the SEC affirmatively objects.[9] This differs from SEC programs that are funded out of the SEC's budget, which is subject to Congressional approval through the annual appropriations process.[10]

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[2] SECURITIES AND EXCHANGE COMMISSION, *SEC Approves Plan to Create Consolidated Audit Trail* (Nov. 15, 2016), https://www.sec.gov/newsroom/press-releases/2016-240; *see also* CAT Concept Release at 20,949.

[3] *Consolidated Audit Trail FAQs*, https://catnmsplan.com/faq (last visited on Jun. 7, 2026).

[4] *See* FINANCIAL INDUSTRY REGULATORY AUTHORITY, *Consolidated Audit Trail*, https://www.finra.org/rules-guidance/guidance/reports/2024-finra-annual-regulatory-oversight-report/cat (last visited on Jun. 7, 2026).

[5] SECURITIES AND EXCHANGE COMMISSION, *Order Approving the National Market System Plan Governing the Consolidated Audit Trail*, 81 FED. REG. 84,696, 84,854 (Nov. 23, 2016), https://www.govinfo.gov/content/pkg/FR-2016-11-23/pdf/2016-27919.pdf.

[6] Bill Alpert, *The SEC Is Considering Blunting Its Trade-Tracking System*, BARRON'S (Apr. 14, 2025), https://www.barrons.com/articles/sec-trade-tracking-system-cat-b2222e58; CAT Concept Release at 20,948.

[7] James Brady et al., *The CAT's Ninth Life: SEC's Sweeping Review Could Fundamentally Reshape the Consolidated Audit Trail*, KATTEN (Apr. 24, 2025), https://quickreads.ext.katten.com/post/102mqs1/the-cats-ninth-life-secs-sweeping-review-could-fundamentally-reshape-the-conso; *see also* SECURITIES AND EXCHANGE COMMISSION, *SEC Issues Order to Reduce Operating Costs of Consolidated Audit Trail* (Sept. 30, 2025), https://www.sec.gov/newsroom/press-releases/2025-127-sec-issues-order-reduce-operating-costs-consolidated-audit-trail.

[8] CAT Concept Release at 20,948.

[9] *See* Commissioner Hester M. Peirce, *Who's Paying?: Statement on the CAT's Funding Model* (Sept. 6, 2023), https://www.sec.gov/newsroom/speeches-statements/peirce-statement-cat-funding-090623.

[10] *See*, *e.g.*, SECURITIES AND EXCHANGE COMMISSION, *Congressional Budget Justification Annual Performance Plan Fiscal Year 2026*, https://www.sec.gov/files/fy-2026-congressional-budget-justification.pdf.

However, under the CAT's current funding model, the SROs that propose the CAT's budget do not bear most of its costs. Furthermore, the SEC does not bear any of its costs. This misalignment weakens incentives to control costs and ultimately increases costs for investors, who bear those costs through higher transaction and compliance expenses.[11] Indeed, SEC Chair Atkins recently noted that CAT's increasing costs have made participation in the U.S. equity and options markets more expensive.[12]

Furthermore, the CAT's funding model is legally problematic. In 2024, broker-dealers challenged the CAT's original funding model in the federal courts, arguing that it violated the Securities Exchange Act (the "**Exchange Act**") and the Administrative Procedure Act by allocating two-thirds of the CAT's costs to broker-dealers and allowing the SROs to pass through their one-third share of the CAT's costs to broker-dealers through fees.[13] The Committee and other industry groups supported that challenge with an amicus brief.[14] In 2025, the Eleventh Circuit required the SROs to propose a revised funding model that prevents the SROs from passing their one-third share of the CAT's costs to broker-dealers. [15] However, the new funding model that the SROs proposed continues to allow the SROs to pass through their share of the CAT's costs to broker-dealers indirectly by raising existing fees that the SROs charge to broker-dealers. Broker-dealers have thus challenged the revised funding model on this ground and also on the ground that funding the CAT outside the appropriations process remains fundamentally unlawful. This dispute is ongoing.[16] This ongoing legal controversy results in regulatory uncertainty for exchanges, broker-dealers, investors, and the SEC.

II. Shifting CAT Funding to the SEC Budget Would Address Flaws in the Current Funding Model.

The Committee supports the SEC's recent actions to narrow the scope of data required to be processed and stored by the CAT, including the elimination of PII. These reforms have reduced the CAT's costs without impairing the CAT's core market surveillance functions.[17] Furthermore, as the

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[11] *See* Peirce, *supra* note 9.

[12] Chairman Paul S. Atkins, *Consolidated Audit Trail: A New Day for the CAT* (Sept. 30, 2025), https://www.sec.gov/newsroom/speeches-statements/atkins-093025-consolidated-audit-trail-new-day-cat.

[13] Am. Sec. Ass'n v. U.S. Sec. & Exch. Comm'n, 147 F.4th 1264 (11th Cir. 2025).

[14] *See* COMMITTEE ON CAPITAL MARKETS REGULATION et al., *Brief of Amici Curiae on Petition for Review of an Order of the Securities and Exchange Commission* (Feb. 23, 2024), https://capmktsreg.org/wp-content/uploads/2024/02/23-13396-amicus-brief-final.pdf.

[15] 15 Am. Sec. Ass'n v. U.S. Sec. & Exch. Comm'n, *supra* note 13.

[16] AMERICAN SECURITIES ASSOCIATION, *ASA, Citadel Securities File Lawsuit Challenging SEC's Consolidated Audit Trail Funding Order* (Mar. 25, 2026), https://www.americansecurities.org/post/asa-citadel-securities-file-lawsuit-challenging-sec-s-consolidated-audit-trail-funding-order.

[17] SECURITIES AND EXCHANGE COMMISSION, *Order Granting Conditional Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 608(e) of Regulation NMS Thereunder, From Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail, Rule 613 of Regulation NMS, and Rule 17a-1 Under the Exchange Act*, 90 FED. REG. 47,853 (Oct. 2, 2025), https://www.federalregister.gov/documents/2025/10/02/2025-19315/order-granting-conditional-exemptive-relief-pursuant-to-section-36a1-of-the-securities-exchange-act; SECURITIES AND EXCHANGE COMMISSION, *SEC Approves Amendment to NMS Plan to Further Reduce the Costs of the Consolidated Audit Trail* (Mar. 27, 2026), https://www.sec.gov/newsroom/press-releases/2026-31-sec-approves-amendment-nms-plan-further-reduce-costs-consolidated-audit-trail.

Committee and other commenters have noted, the benefits of collecting PII were not substantiated, while the retention of such information created significant cybersecurity and privacy risks for market participants.[18]

However, the CAT's funding model continues to suffer from the fundamental flaws described above. The SEC can address these flaws by shifting CAT funding from the current Regulation NMS plan to the SEC's budget. There are two principal reasons to do so.

First, funding the CAT through the SEC's budget would subject the CAT's costs to congressional oversight through the appropriations process. Under the current model, the SROs control the CAT's budget and governance while imposing most costs on broker-dealers, and the SEC is not required to justify any cost increases to Congress. The SEC may therefore have less incentive to scrutinize requests for additional CAT funding or seek to improve the cost effectiveness of CAT than it would if CAT's costs came out of the SEC's congressionally appropriated budget.[19] In particular, placing CAT costs within the SEC's budget would require the SEC to weigh the necessity of increasing the CAT's budget against other policy priorities and obtain approval from Congress for cost increases that it considers necessary. This structure would thus create stronger incentives to control costs, improve efficiency, and limit unnecessary expansion of the CAT's scope and budget.

Second, funding the CAT through the SEC's budget would place cost allocation within an established statutory framework. The SEC recovers the cost of its budget from securities market participants through Section 31 fees, which are transaction fees assessed against market participants according to an allocation framework grounded in the Exchange Act. The staff of the Committee recently issued a report that examines this framework in detail.[20] The process for determining and collecting Section 31 fees is prescribed by statute and operates as part of the normal congressional appropriations process.[21] As a result, it rests on a clear legal foundation and has not been subject to the types of legal challenges that have arisen with respect to the CAT's current funding model, which is not established by statute and instead relies on SRO discretion. Moving CAT costs to the SEC's budget would therefore resolve the ongoing dispute about the legal validity of the CAT's funding structure and reduce the risk of future challenges. This would increase predictability and consistency for the SEC and market participants.

Furthermore, shifting CAT funding to the SEC's budget would not increase costs for taxpayers. The CAT would continue to be funded by the securities industry through the existing Section 31 fee framework.[22]

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[18] *See*, *e.g.*, COMMITTEE ON CAPITAL MARKETS REGULATION, *Roadmap for Regulatory Reform* at 36 (May 2017), https://capmktsreg.org/wp-content/uploads/2022/11/Roadmap-for-Regulatory-Reform-1.pdf; AMERICAN SECURITIES ASSOCIATION, *ASA Supports Congressional Letter to SEC Outlining CAT Cybersecurity Concerns* (Jun. 14, 2023), https://www.americansecurities.org/post/asa-supports-congressional-letter-to-sec-outlining-cat-cybersecurity-concerns.

[19] Peirce, *supra* note 9.

[20] COMMITTEE ON CAPITAL MARKETS REGULATION, *Reforming the Section 31 Fee Framework* (Dec. 2025), https://capmktsreg.org/wp-content/uploads/2025/12/CCMR-Staff-Report-Reforming-Section-31-Fees-12.15.25.pdf.

[21] 15 U.S.C. § 78ee; *see also*, *e.g.*, SECURITIES AND EXCHANGE COMMISSION, *Order Making Fiscal Year 2026 Annual Adjustments to Transaction Fee Rates* (Feb. 27, 2026), https://www.sec.gov/files/rules/other/2026/34-104909.pdf.

[22] 15 U.S.C. § 78ee; 15 U.S.C. § 77f(b).

For these reasons, we recommend that the SEC shift the CAT's funding to the SEC's budget. The SEC should do so via a two-step process. First, it should immediately seek to amend its fiscal year 2027 budget request to Congress to include funding for CAT operations for the upcoming year.[23] Second, it should initiate a rulemaking to replace the current CAT funding mechanism with one that provides for CAT costs to be funded through the SEC's congressionally appropriated budget for subsequent years. The rulemaking should also establish mechanisms for broker-dealer input into CAT governance, given that broker-dealers will continue to bear CAT costs indirectly through higher Section 31 fees. In addition, the SEC should continue its efforts to reduce CAT-related costs, including by retiring redundant regulatory reporting systems such as the Electronic Blue Sheets, and enhance CAT cybersecurity protections, including by appropriately limiting SEC and SRO access to market participant data. Finally, because funding the CAT through the SEC's budget will increase the amount of Section 31 fees charged to market participants, the SEC should consider measures to reduce volatility in those fees.[24]

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Thank you for your consideration of the Committee's position. Should you have any questions or concerns, please do not hesitate to contact the Committee's President, Professor Hal S. Scott (hscott@capmktsreg.org) or its Executive Director, John Gulliver (jgulliver@capmktsreg.org) at your convenience.

Respectfully submitted,

Robert Glenn Hubbard

John L. Thornton
CO-CHAIR

Hal S. Scott
PRESIDENT

R. Glenn Hubbard
CO-CHAIR

[23] OFFICE OF MANAGEMENT AND BUDGET, *Circular No. A-11, Section 110: Supplementals and Amendments* (2025), https://www.whitehouse.gov/wp-content/uploads/2025/08/s110.pdf.

[24] *See* COMMITTEE ON CAPITAL MARKETS REGULATION, *supra* note 20.